

IN THE SENATE OF THE UNITED STATES.

JUNE 10, 1858.—Ordered to be printed.

Mr. IVERSON submitted the following

REPORT.

The Committee on Claims, to whom the petition and papers of Charles Kohler were referred, make the following report :

They have looked into the same, and finding that he has already received \$1,350 27 for salvage, upon which the claim is founded, considering that sum quite as much as he was entitled to, and for the statements contained in Captain J. B. Magruder's letter, the committee think that the petitioner is not entitled to any further relief, and recommend that the petition be rejected.

QUARTERMASTER GENERAL'S OFFICE,
Washington, D. C., February 11, 1848.

SIR: I have re-examined the claim of Charles Kohler for salvage on the cargoes of the schooners Die Vernon and Emeline, for which he has again memorialized Congress, and which, with the memorial, was referred by you to this office for a report.

In my report to your predecessor, Mr. Poinsett, under date of the 8th of February, 1841, I recommended that the claimant should be allowed twenty-five per cent. on the cost of the cargo of the Die Vernon and forty per cent. on that of the Emeline, amounting, in all, to \$1,350 27. The recommendation was adopted, and the amount stated was paid the claimant by Captain A. R. Hetzel, assistant quartermaster.

The cargo of the Die Vernon consisted of 2,748 bushels of corn, 960 bushels of oats, 1,854 bags to contain the same, 19 bales of hay, and 24 kegs and boxes of ordnance stores. The corn, at the place of shipment, cost the government \$1 20 per bushel; the oats 53 cents, and the bags 25 cents each. The contents of the boxes and kegs of ordnance stores cannot be ascertained; but on the supposition that they contained musket cartridges, which was probably the case, I am informed at the Ordnance Office that the cost would not exceed \$11 per keg or box, and if fixed ammunition for cannon, about the same. The hay was totally damaged and unfit for use. The cost of the cargo saved, therefore, amounted to \$4,533 90—25 per cent. on which, \$1,133 47½, was awarded.

The cargo of the schooner Emeline consisted of 300 feet of boards, 780 feet of scantling, 1,000 bushels of corn, 200 bushels of oats, 600 bags to contain the corn and oats, 1 field bugle, and 1 maul; of which there was saved 300 bushels of corn with 150 bags in good order, the cost of which was \$397 50, and 200 bushels damaged, the value estimated at 60 cents per bushel, and 100 bags to contain the same, making a total of \$542 50; forty per cent. on which, amounting to \$216 80, was awarded.

It will be perceived that I estimated the value of the cargoes at the prices the articles cost the government at the points from which they were shipped.

However, as it has been decided that he was entitled to salvage, it might, perhaps, have been proper to have estimated the value of the cargoes at the price they cost the government delivered at Indian river, which would be the freight added to the cost of the articles.

From the accounts of Captain Dusenbery, it appears that he paid the master of the Die Vernon \$361 29 for the transportation of the articles to Indian river, twenty-five per cent. on which would be \$90 32; and the master of the schooner Emeline \$154 83, forty per cent. on which would be \$61 93, making a total of \$152 25.

At the time the claimant rendered the service his vessel was in the employment of the government, and he was receiving pay at the rate of \$1,000 per month.

Before deciding upon the matter, I would respectfully call the attention of the Secretary to the facts set forth in the communication of Lieutenant Magruder, filed with the claim.

All the papers in the case are herewith returned; and I have the honor to be, very respectfully, your obedient servant,

TH. S. JESUP,
Quartermaster General.

Hon. J. C. SPENCER,
Secretary of War, Washington city.

P. S.—This case was accidentally placed upon the file of unadjusted Florida claims, and in that way escaped my notice until yesterday, which accounts for the delay in the report.

TH. S. JESUP,
Quartermaster General.

BOSTON, *January 26, 1841.*

SIR: An absence on duty has prevented my answering your letter of the 16th inst. until this date. With respect to the services of Captain Charles Kohler, of the schooner Lally Miller, in saving the cargo of the schooner Die Vernon, I know very little, being at the time of the wreck of the Die Vernon absent on a march from Fort Pierce, with General Hernandez, to meet the column under your immediate command, which we did at Camp Lloyd. I therefore could

not have promised Captain Kohler \$1,000 for saving the ammunition. And I here distinctly state, that I never did promise him that or any other sum for any service which he may have rendered in the case of the Die Vernon or any other vessel. I stated to him, however, that I expected every captain in the harbor, who came there chartered by the United States, to use every exertion to save the vessels and cargoes when in danger; and that if any refused to obey my directions in these particulars, I would write and request the quartermasters at St. Augustine and Charleston to give such captains no further employment. I did this to furnish a motive for exertion, which motive I knew would be all powerful, and did not dream of any claim being made on government for salvage.

With respect to the 24 boxes and kegs of ammunition, I cannot ascertain from my papers anything about them, but am under the impression that nothing was lost in the Die Vernon but the hay and a quantity of corn. Lieut. W. W. Mackall, 1st artillery, is, I think, cognizant of the facts in the case of the Die Vernon, and would be able, I think, to give more satisfactory information than I can on the subject.

With regard to the Emeline, the circumstances are these: You had stated to me your great want of forage and provisions, and I felt the absolute necessity of saving the cargo of any vessel that might arrive. Under these circumstances, a schooner, the Emeline, (with *forage, not subsistence*) arrived about sunset off the bar, and attempted to enter the harbor. The wind was blowing heavily, and she stuck on the bar. I had the boats in readiness, manned by Minorcan boatmen, who were employed by me as laborers in the quartermaster's department. The sea was high, and they murmured at my order to proceed with me to the vessel; whereupon, not wishing to go to extremities with them, as they were not enlisted soldiers, I asked Captain Kohler for the use of his small boat, a four-oared jolly boat, and putting four men into her proceeded to the Emeline, accompanied by Captain Kohler, with a view to learn her exact situation, and to give confidence to my boatmen, who were in boats of three times the size.

Having accomplished my purpose, I returned in the small boat and reiterated my order. Some of the boatmen showing a disposition again to disobey, I forced them into the boats, and cutting the painters, the boats (in one of which I was myself) swept rapidly with the ebb tide towards the breakers, and they were obliged to pull for the wreck. Here they were soon loaded and despatched; however, with very light loads. Captain Kohler, at my request, returned on board, and, finding it extremely dangerous to trust the boats with any load so near the breakers, I asked him if he thought it possible to fix a large hawser from the vessel to the shore, to which the boats in their passage could be attached to prevent their being swept into the breakers, where they would have swamped instantly; he replied in the affirmative, and immediately went in his own boat to his schooner in the harbor, and returning with the hawser, succeeded in fixing it as I desired. By this means a portion of the cargo was saved; and though I was under the impression that a larger portion was saved than that mentioned in my certificate, yet

I am certain that whatever I stated at that time (being on the spot) was the exact amount. As I had a thousand things to engross my attention daily, I cannot be supposed to recollect as accurately now as I did when I made the statement. By this it appears there was saved from the wreck 150 bags of corn, *dry*, and probably 100 more *damaged*, one bugle, and one maul. There were no provisions on board, as far as I can ascertain, and presume that, using the word "*subsistence*" for the army, I used it in its general, and not in its technical sense, as "supplies;" forage being considered "*subsistence*" for horses constituting a part of the army.

These things, you are aware, were always done in great haste, and perfect accuracy cannot be observed, consistently with an efficient discharge of one's duty, under such circumstances.

Captain Kohler remained with me on the wreck the greater part of the night. Towards morning, after he had left me, I landed, with a view of ascertaining if the waves were likely to reach the corn already landed, and had it removed, without the presence of Captain Kohler, to a place of safety, having found that he had directed it, when, on shore, to be placed too near the sea. On my return to the vessel, I went into the cabin, and while there the sea broke over her, and nearly filled her cabin. I found that the corn on board was thoroughly wet; that the vessel would probably go to pieces in an hour, and that a proper consideration for the lives of the men would not warrant any further prosecution of my purpose. I accordingly saw all of my men into their boats and off, and getting into the last one myself, I left the wreck a little before daylight, with a portion of her own crew on board, and a boat to take them off. I had not long reached the harbor when I was informed that some men were left on the wreck by the boat which I had left behind. Captain Kohler's boat being the fastest, I desired him to take it and bring the men off. The danger at this time to the boats was no greater than during either of their trips, the only thing to be feared was that the wreck would part before the boat reached it. These were not my own men, but, prompted by a motive of common humanity, I determined that they should be saved. For this the government surely is, in no way, bound to reward Captain Kohler. In short, I consider Captain Kohler not entitled to salvage, as it was perfectly understood by him that any captain who did not obey my orders with reference to the saving of vessels and cargoes would not be employed any longer or again by the United States. There was no claim made upon the spot, and I am sure that the petition is an *afterthought* of his. Had I imagined for one moment that Captain Kohler meant to claim *salvage*, I never should have permitted him to have approached any vessel freighted with United States stores on that coast.

It is proper, however, to state that, in the case of the "*Emeline*," Captain Kohler's conduct was spirited and efficient, and deserving, in my opinion, a pecuniary reward, if such services are rewarded in that manner by the government.

With respect to the *Die Vernon*, it may be right to state, that Captain Kohler purchased the rigging of that vessel at \$250; and when it became absolutely necessary, for the purposes of the army, that it

should be purchased by the government, it could not be obtained of him for a less sum than about \$2,000. His vessel was also chartered at a high rate, and I cannot but express my surprise that, under such circumstances, he should present a claim to Congress for further remuneration in this case.

I have the honor to be, sir, very respectfully, your obedient servant,
J. BANKHEAD MAGRUDER,
1st Lieutenant 1st Artillery, U. S. A.

Major General T. S. JESUP,
Quartermaster General U. S. A., Washington, D. C.

